

REMARKS/ARGUMENTS

The present Amendment is in response to the Office Action having a mailing date of February 23, 2006. Claims 1-21, 23, and 24 are pending in the present Application. Applicant has amended claims 1-10 and 23. Consequently, claims 1-21, 23, and 24 remain pending in the present Application.

Applicant has amended claims 1-10 and 23 to remove alphanumeric designations of the steps. Applicant has also amended claim 1 to recite a "predetermined" load in lieu of a "particular" load. Accordingly, Applicant respectfully submits that no new matter is added.

In the above-identified Office Action, the Examiner stated that claims 1-21, 23, and 24 are subject to a restriction requirement under 35 U.S.C. § 121. In particular, the Examiner required restriction to claims 1-10 and 23 or 11-21 and 24. Applicant hereby elects claims 1-10 and 23, with traverse.

In the above-identified Office Action, the Examiner rejected claims 1 and 11 under 35 U.S.C. § 112, second paragraph. In particular, the Examiner found the expression "when a particular load on the automatic transmission system increases by a particular amount within a particular time . . ." indefinite. The Examiner characterized the expression as requiring a solution to a problem having three unknown variable.

Applicant respectfully traverses the Examiner's rejection. Claim 1 recites a method that includes determining that transmission performance is improvable when a predetermined load on the automatic transmission system increases by a particular amount within a particular amount of time. In response, the shift threshold (the load at which the transmission automatically shifts the gear) may be adjusted. Thus, the performance of the system is improved and shifting may be

smoother, gas mileage improved, and wear and tear on the automatic transmission reduced.

Specification, page 7, lines 10-13.

Thus, claim 1 recites that a known load increases by a certain amount within a certain time.

Stated differently, claim 1 recites a specific criterion for determining whether the performance of the transmission is improvable. This specific criterion is a rate of change of the load (an increase of at least a certain amount within a certain time) that exceeds some threshold (the particular amount over the particular time). Moreover, Applicant respectfully submits that the recitation in claim 1, even without the amendment, is not a three variable problem. Instead, it can be reduced to determining the rate of change of the load of interest. Consequently, Applicant respectfully submits that claim 1 is clear and definite.

Claims 3 and 7-10 depend upon independent claim 1. Consequently, the arguments herein apply with full force to claims 3 and 7-10. Accordingly, Applicant respectfully submits that claims 1 and 3-10 are allowable as currently presented. Moreover, as the Examiner did not indicate specific reasons for rejecting claims 2 and 23, Applicant respectfully submits that claims 1-10 and 23 are allowable as currently presented.

Applicant's attorney believes that this application is in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

SAWYER LAW GROUP LLP

May 23, 2006
Date

Janyce R. Mitchell / Reg. No. 40,095
Janyce R. Mitchell
Attorney for Applicant(s)
(650) 493-4540